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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/724,654 | 12/01/2003 | Mary Lucille DeLucia | 19741 | 2326 |
| 22827 | 7590 | 08/01/2005 | EXAMINER | |
| DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449 | | | PENG, KUO LIANG | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1712 | |

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,654

Applicant(s)

DELUCIA ET AL.

Examiner

Kuo-Liang Peng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/27/05 Amendment.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-31 and 33-45 is/are allowed.
- 6) ☒ Claim(s) 46 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/18/05, 2/16/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Applicants' amendment filed on May 27, 2005 was received. Claims 1-20 are deleted. Claims 21-47 are added. Now, Claims 21-47 are pending.
2. Claim rejection(s) under 35 USC 102 and 103 in the previous Office Action (Paper No. 0105) is/are removed.
3. The indicated allowability of Claims 12-13 (now Claims 46-47) is withdrawn in view of the newly discovered reference(s) to Metzemacher (US 5 139 875). Rejections based on the newly cited reference(s) follow.

Claim Objections

4. Claim 32 is objected to because of the following informalities:

In Claim 32 (line 1), after "composition", should there be -- of claim 21 --?

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 46-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Metzemacher (US 5 139 875).

For Claim 46, Metzemacher discloses a composition comprising a polyolefin, a block copolymer such as SBS, SIS, SEBS, etc., a polysiloxane and a titanate or a zirconate. (col. 1, line 51 to col. 4, line 5 and Examples) The polysiloxane can be used in an amount relative to relative to the filler as described in col. 4, lines 1-5. The amount of the filler can be further exemplified in Examples. Therefore, Metzemacher does disclose the amount of the polysiloxane falling within the claimed range of the instant claim. The amount of the polysiloxane can be further exemplified in Examples. For Claim 47, the amount of the titanate or zirconate with respect to that of the filler is described in col. 3, lines 19-44. The amount of the filler can be further exemplified in Examples. Therefore, Metzemacher does disclose the amount of the polysiloxane falling within the claimed range of the instant claim. The amount of the titanate or zirconate can be further exemplified in Examples.

Allowable Subject Matter

7. Claims 21-31 and 33-45 are allowed.

8. The following is an examiner's statement of reasons for allowance:

The present claims are allowable for at least the following reason(s) over the closest references: Maycock (US 4 859 759), Nohr (US 5 413 655) and Metzemacher.

None of these references teaches or fairly suggests the composition or the method of using the composition set forth in the instant claims.

9. Claim 32 would be allowable if rewritten to overcome the claim objection, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


The patentability of the instant claim is described in the previous paragraph.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are

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unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

klp
July 28, 2005


Kuo-Liang Peng
Primary Examiner
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